



INTERNAL REVIEW DECISION
(Internal Review Decision Notice in response to an Application for Internal Review)

PART 1: Details of Internal Review

Internal Review Number:	Internal Review 0078-18
Applicant's Name:	Dale Smith

PART 2: Decision History

Original Decision:	Breach of Rule 137(a) of the Australian Rules of Racing
Original Decision Makers:	D Aurisch, M Knibbs, J Williamson, W Flynn, R Hanson
Date of Original Decision:	4 August 2018
Internal Review Decision:	Original decision of penalty confirmed - Sixteen (16) day suspension
Internal Adjudicator:	Mr Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	23 August 2018

PART 3: Summary of Internal Review Application

The Applicant, Mr Dale Smith, rider of TVERSKY in Race 7 at Doomben on 4 August 2018, was found guilty of a charge under Australian Rule of Racing 137(a).

Australian Rule of Racing 137(a) states:

"Any rider may be penalised if, in the opinion of the Stewards, he is guilty of careless, reckless, improper, incompetent or foul riding."

At the stewards' inquiry conducted on 4 August 2018, the Applicant pleaded guilty to a charge of careless riding pursuant to Australian Rule of Racing 137(a) in that after passing the 1000 metre mark the Applicant permitted TVERSKY to shift inwards when not sufficiently clear of ZENDAYE, which resulted in ZENDAYE being severely checked to avoid the heels of TVERSKY.

Stewards subsequently suspended the Applicant's licence for sixteen (16) days to commence at midnight on 5 August 2018 and to expire at midnight on 21 August 2018.

The Applicant sought a review of the penalty and submitted the following in support of his Application:

"I feel that the penalty given to my error of judgment is far too harsh as it removes the opportunity for me to compete in 4 metropolitan meetings. I pleaded guilty to the charge as I knew that I had made an error and was prepared to accept a penalty. I feel describing my actions as being of a "high degree of carelessness" is inaccurate and I am requesting this review to have my penalty reconsidered and reduced to more in line with the actual infringement."



After reviewing the race again myself and from what I viewed in in inquiry, I can clearly see that the horse “Zendaye” was certainly impeded by my horse but its reaction was due partly to the attempt by its rider to restrain and get the horse to settle once it had thought it had done enough to lead. Clearly I made an error of judgment and thought that I was adequately clear of Zendaye when in fact I was not.

My last suspension was on 17/6/18 at the SCTC (9 days) and I feel the amount of interference was very similar and deserved a similar penalty. I have also reviewed over the last month in the SEQ area the following suspensions -

4/8/18 J Bayliss 8 days GCTC

3/8/18 H English 10 days Gatton

3/8/18 J Murphy 15 days Gatton

29/7/18 M Hellyer 9 Days SCTC

21/7/18 T Harrison 11 days Doomben

21/7/18 R Goldsbury 9 days TIC

20/7/18 R Stewart 9 days ITC

7/7/18 N Evan 8 days TIC

4/7/18 T Brooker 9 days ITC

I understand all infringements are different, but after reviewing all of the above suspensions there appears to be a strong case that my penalty is vastly inconsistent with the others for very similar offences. I feel that as the metro meetings are more important and of significantly greater financial benefit, the amount of these meetings being missed should bear weight in determining the penalty. My last suspension had me missing 2 metro meetings, with this 16 day penalty that doubles the impact of the penalty to 4 metro meetings.

The outcome I am seeking is that my penalty be reduced to have me miss just 3 metro meetings instead of the way it currently stands missing 4 which is a 100% increase. I feel this is a much fairer and just penalty and still a significant increase from my last suspension and certainly is a deterrent for myself going forward.”

PART 4: Reasons for Internal Review Decision

The Applicant’s complete review submissions are outlined in Part 3 of this decision.¹ The Applicant pleaded guilty to the aforementioned careless riding charge and sought a reduction in penalty.

The reviewer finds it inappropriate, as submitted by the Applicant, to compare previous careless riding offences due to the many variables and circumstances that may apply, particularly to the degree of carelessness, interference suffered, evidence of the relevant riders/stewards, race footage and relevant disciplinary records. The reviewer further finds the Australian Rules of Racing particular to Rule 137(a) do not discriminate between the status of metropolitan and country riders when determining an appropriate penalty as submitted by the Applicant. The standard careless riding offences range between high, medium and low which attract a penalty of 17, 13 and 10 race meetings respectively.

¹ Application for an Internal Review dated 6 August 2018



The reviewer finds the race footage compelling and demonstrates the Applicant, rider of TVERSKY, permitted his mount to shift in near the 1000 metre mark when not clear of ZENDAYE, resulting in that horse being taken in off its rightful running line and having to be severely checked. The reviewer finds the Applicant commenced from the outside barrier and shifted in on an acute angle and, despite looking to his inside on several occasions, continued to shift in regardless when not clear of ZENDAYE, which was the sole cause of the aforementioned interference. The reviewer finds the onus is on the rider, in this case the Applicant, to ensure prior to shifting ground he is sufficiently clear of other runners beforehand to avoid causing interference. The reviewer finds it could be reasonably argued the Applicant's actions fall into the more serious offence of reckless or improper riding pursuant to Rule 137(a). Notwithstanding, in considering the evidence and aforementioned factors, the reviewer is completely satisfied the charge particular to careless riding is proven.

The stewards deemed the incident to be in the high-range. The standard penalty for a high-range offence is a seventeen (17) day suspension. The Applicant's disciplinary history notes four (4) careless riding suspensions this calendar year.

In weighing up the evidence on penalty, consideration was provided to the Applicant's degree of carelessness, interference caused, guilty plea, penalty precedents and disciplinary history. The Applicant received a one (1) day dispensation in penalty for a guilty plea. The reviewer finds the penalty imposed is consistent with a high-range offence and, considering the aforementioned factors and particularly the degree of carelessness and precarious position the Applicant's actions placed upon ZENDAYE and its rider Mr Mark Du Plessis, is not satisfied a further reduction in penalty is proven and accordingly confirms the original decision on penalty.

PART 5: Review Rights following Internal Review Decision

In accordance with section 246 of the *Racing Integrity Act 2016*, as the applicant for an internal review of the original decision, you are able to apply to the Queensland Civil and Administrative Tribunal (QCAT) for an external review of the internal review decision.

An external review is commenced by lodging the appropriate forms with QCAT. In accordance with section 33 of the *Queensland Civil and Administrative Tribunal Act 2009*, an application for an external review of an internal review decision is to be made within 28 days from the day this internal review decision notice is provided to the applicant.

For further information regarding the processes for an external review of the decision, please contact QCAT:

Queensland Civil and Administrative Tribunal

Registry Location: Level 9, 259 Queen Street, BRISBANE QLD 4001
Postal Address: GPO Box 1639, BRISBANE QLD 4001
Phone: 1300 753 228
Email: enquiries@qcat.qld.gov.au